

UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA)

v.)

SCOTT WESTERVELT)

Case No. 1:22-MJ-294)

Defendant)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the dates of June 14, 2022 in the county of Warren in the Northern District of New York the defendant violated:

Code Section

18 U.S.C. § 2422(b)

Offense Description

Attempted Coercion and Enticement

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT

☒ Continued on the attached sheet.

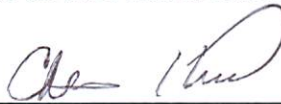

Complainant's signature

FBI Special Agent Andrew J. Zubik

Printed name and title

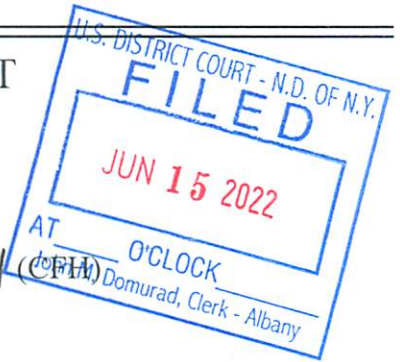
Attested to by the affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: June 15, 2022


Judge's signature

City and State: Albany, NY

Hon. Christian F. Hummel, U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

**AFFIDAVIT IN SUPPORT OF A CRIMINAL
COMPLAINT**

I, **Andrew J. Zubik**, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I respectfully make this affidavit in support of a criminal complaint charging Scott WESTERVELT (“WESTERVELT”) with using a facility of interstate commerce to persuade, induce, entice, and coerce, and attempt to persuade, induce, entice and coerce, an individual who has not attained the age of 18 years to engage in sexual activity for which any person can be charged with a criminal offense, in violation of Title 18, United States Code, Section 2422(b).

2. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been since February 2016. I am assigned to the Albany Division, Albany, NY. I have investigated a variety of violent crimes, including the areas of child pornography and online enticement investigations. I am currently investigating federal violations concerning child pornography and the sexual exploitation of children. I have gained experience regarding such crimes through training in seminars, classes, and everyday work related to conducting these types of investigations.

3. I am an investigative or law enforcement officer of the United States within the meaning of Title 18 United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516(1). As an FBI Special Agent, I am authorized to

seek and execute federal arrest and search warrants for Title 18 criminal offenses, including offenses related to the sexual exploitation of minors, specifically those involving the exploitation of a minor for sexual purposes in violation of Title 18, United States Code, Section 2422(b).

4. The statements contained in this affidavit are based upon my investigation, information provided by other law enforcement officials and on my experience and training as a Task Force Officer with the FBI. As this affidavit is submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that WESTERVELT has violated Title 18, United States Code, Section 2422(b).

BASIS FOR PROBABLE CAUSE

5. From February through June, 2022, an undercover law enforcement officer (UC) maintained an undercover persona of a 51-year-old man on Website A, an online social network devoted to sexual fetishes. The UC's profile description stated, "Taboo dadd here looking for NSA fun." NSA is an abbreviation for 'no strings attached.' In the "Tags" section of the profile – a section where a user can list key words related to their sexual fetishes – the UC listed, "Fun Tab perv Fam Fun."

6. On February 4, 2022, Website A user "bearbk" – later identified as WESTERVELT – sent the UC a feature similar to a "like," to which the UC did not respond. WESTERVELT's profile page featured a head-to-toe selfie of WESTERVELT, who was wearing only boxer shorts. In the "Headlines" section of the profile, WESTERVELT wrote, "Just lookin for a p3rvy good time." His "Description" section read, "Your average p3rvy bear looking to be the big bro/daddy and get nasty and kinky with his boy. Prefer someone regular, but won't turn away some hot

fun...I'm very openminded, so try me ;)” Under “Tags,” WESTERVELT wrote, “Daddy, WS, Bear, P3rv, tab, openminded.” WESTERVELT further uploaded several selfies to his profile page, along with a picture of his penis.

7. The UC did not respond to WESTERVELT’s “like” and, on May 23, 2022, WESTERVELT again sent a “like” to the UC. Again, the UC did not respond.

8. On May 24, 2022, WESTERVELT sent the UC a direct message titled “Hey” that read, “U sound fun man.” On May 27, 2022, the UC responded and stated “hey there. cool yea into some fam fun taboo here if its ur thing. love the pics.” WESTERVELT replied and stated, “Yah...def into the same bud...sounds like we’d click ;).” Between May 31, 2022 and June 1, 2022, the UC and WESTERVELT discussed chatting over Application A, an online encrypted messaging application. On June 1, 2022, the UC sent WESTERVELT his undercover username on Application A.

9. On June 1, 2022, WESTERVELT messaged the UC on Application A, using the screenname “nycbear77” and stated, “Hey man. Bearbk from [Website A] here” and introduced himself as “Scott.”

10. The following day, on June 2, 2022, WESTERVELT asked the UC over Application A “What gets you off pervy bud? ;).” The UC responded, “Don’t judge but I play with my gf son.” WESTERVELT responded “No judgment bud. He fun? ;)” WESTERVELT suggested that he and the UC “could always perv to some good porn together and see if [the UC] feel like sharing [the 12 year old] sometime.” WESTERVELT further stated, “let’s hangout and see if I’m the right guy. ;)” The UC told WESTERVELT that his girlfriend’s son is 12 years old, and that he is “looking to explore and I want it to be with the right and safe guy.” The subsequent

chats this same day, the UC asked WESTERVELT what he is into, referring to WESTERVELT's sexual interests, and WESTERVELT stated, "Love everything about you and [the 12 year old]. Fam, yng, the idea of you sharing him. Love all kinds of pervy and kinky stuff." WESTERVELT further stated that he has never been with any as young as the purported 12 year old, but that he has "always looked at younger." WESTERVELT assured the UC that he can be "very discreet." A few minutes later, the UC asked WESTERVELT if he had "ever seen younger porn" to which WESTERVELT responded, "Sure. You have too?" WESTERVELT then asked for pictures of the UC and the 12 year old, and added that the pictures "can be G rated to start lol."

11. On June 3, 2022, WESTERVELT asked the UC if he was in the Colonie, NY area, because he was "hoping we could meet." The UC responded he was not in the area. The UC informed WESTERVELT that he has a campsite in Lake George, NY and takes the 12 year old there. Later that evening, WESTERVELT messaged the UC and asked what he was doing that weekend. The UC responded that he had family obligations, and then stated, "You never told me your most taboo." WESTERVELT replied, "You seem to have a pretty good idea of it at this point. You know how bad I'm looking forward to possibly going to lake George with you :)." The UC told WESTERVELT that he would have to talk to the 12 year old, first, and said it would be his decision if WESTERVELT visited Lake George with them. WESTERVELT responded, "Totally get that. Hopefully we can chat and he can get a feel for me before the trip. I think he'll like me :) Either way, hopefully we can hangout too. Maybe grab a beer and play darts or something some time and talk about what gets us off and all ;)" The UC replied that he would talk to the 12 year old the following day, but stressed "this is about him. Nothing to do with me." WESTERVELT then stated, "That makes sense. Let me know if there's anything I can do to make

him more comfortable :).” On the following day, June 5, 2022, the UC replied that the 12 year old is a little nervous. WESTERVELT suggested he talk to the 12 year old so “he can get more comfortable with me.”

12. On June 6, 2022, WESTERVELT asked the UC why the 12 year old was nervous about meeting him. The UC responded, “It will be the first time with someone else other than me and nervous about not knowing what to do. I think he is also scared its going to hurt.” WESTERVELT replied, “That’s understandable. Hopefully we can all talk and he’ll see that there’s nothing to worry about.” A few messages later, WESTERVELT wrote “It’s great you guys are so close. As much as I really want to come, Def want to make sure the trip stays stress free, so if you think this is gonna stress him at all, we can always talk about another time :/” The UC responded, “Lets see how you and him are when you guys talk.” WESTERVELT added that the 12 year old is “really cute :)” and told the UC that the UC is “cute,” as well. The UC responded, “lol he is cute, this is about him!” WESTERVELT replied, “I know. Trust me, I’m very attracted to him. :)” WESTERVELT and the UC then agreed to set up a phone call with the 12 year old for June 7, 2022. WESTERVELT reiterated that he hoped the 12 year old would find him “pretty easy to get along with and be comfortable.”

13. In subsequent chats during the evening hours of June 6, 2022, the UC asked WESTERVELT if he had been thinking about the 12 year old. WESTERVELT stated, “A lot to be honest lol” and further stated, “He’s a damn hot kid....but also really into the idea of being able to help him explore and have his first experiences.” WESTERVELT continued that he was “thinking about how hot it would be to let him try everything he wants” and that the “more comfortable he gets with me the more he drives how gently it has to be ;).” WESTERVELT asked

the UC if he “played” with the 12 year old at all that weekend, and the UC said he gave the 12 year old a “blow job.” WESTERVELT responded “Damn. I’m jealous. Been fantasizing about doing just that all day.” A few messages later, WESTERVELT again wrote that he thought the 12 year old would be “comfortable with me” and added “When we all hangout we’ll do a few shots to chill and go from there haha.” The UC asked WESTERVELT how long he planned to stay in Lake George with him and the 12 year old if WESTERVELT “clicked” with the 12 year old, and WESTERVELT stated, “Would love to spend as much time with [the 12 year old] as I can.”

14. On June 7, 2022, WESTERVELT and the UC had a phone call with a second undercover officer, who posed as the 12 year old child. During this call, WESTERVELT introduced himself to the 12 year old as “Scott.” The purported 12 year old told WESTERVELT that he was nervous. WESTERVELT said they would “take it slowly” and “when he gets to the point where something could hurt, to just ease into it.” The purported 12 year old asked WESTERVELT if it would be alright if the UC was present when they met in person, and WESTERVELT said yes. WESTERVELT said there would be no secrets between the three of them. The purported 12 year old said he just did not want to be made fun of because he did not know what was doing sexually. WESTERVELT responded, “oh, God no. You can trust me, that’s not gonna happen. Everything will be real slow and we’ll figure it out together. You don’t have to worry about that at all. Trust me. I promise you that.” Later in the conversation, the UC stated in sum and substance that “We’re DDF [an acronym for ‘drug and disease free’]. I’m clean. He’s clean.” WESTERVELT responded, “Me too. Same exact thing,” and stated he was on HIV PrEP, referring to an HIV preventative medication. The UC asked whether WESTERVELT would wear a condom with the 12 year old, and WESTERVELT said he “would prefer not, but if you’d prefer

with, that's fine." After the call, WESTERVELT said he hoped "all went well on your end :)" The UC told WESTERVELT that if all went well when they met in person, he would go to a bar one night to leave WESTERVELT alone with the 12 year old. WESTERVELT stated "That all makes sense and sounds great. Hopefully he gets comfortable enough to want that." WESTERVELT told the UC that "if you want to make my night...you could always send me a pic of you giving him a serious kiss goodnight tonight... 😊 and let him know the kiss was from me." The UC responded, "please stop with all the pic and video demands, iv been through this with several other guys." WESTERVELT agreed and said he only wanted to video chat so they knew it was each other when they met in person. WESTERVELT and the UC continued to chat, and planned to meet when the UC was at Lake George around June 14 – 17, 2022.

15. Between June 8 and June 12, 2022, WESTERVELT and the UC did not message each other. On June 13, 2022, the UC received a message from WESTERVELT on Website A – who now used screenname "DirtyDaddyBear77" – that read "Hey." WESTERVELT's new profile picture included a picture of a penis. The "Headline" section of the profile read, "Piggy and p3rvy fun. The "Description" section read, "Just you average piggy and prvy daddy bear type looking around. Plenty of interests...just ask..." The UC responded, "Hey there. into fam fun stuff? have [Application A]?" WESTERVELT responded he did, and then sent the UC a message on Application A that read "Hey. Messaged you on [Website A] but you didn't realize it was me." WESTERVELT told the UC it was his same Website A account, but that he had "deleted everything on it the other day." Referring to the fact that WESTERVELT had not messaged the UC since June 7th, the UC wrote, "I just thought you didn't like us." WESTERVELT stated "I think you know that's not the case. I got a little nervous after our last chat though to be honest."

He continued “I wanna hangout with you guys. And I get why you don’t want to video chat but I just want us to know we’re all really meeting up with each other lol.” WESTERVELT asked if he was still invited to Lake George, and the UC said he would have to talk to the 12 year old. WESTERVELT told the UC to say “hi” to the 12 year old, and the UC responded, “Might hold off on that he was pretty let down.” WESTERVELT responded, “Ok. I’m sorry. Hopefully we can fix that.”

16. On June 14, 2022, WESTERVELT messaged the UC that he was “thinking about taking a ride up if [the 12 year old] might want to meet me...what do you think?” The UC agreed and they made plans to meet later that afternoon.


17. In the afternoon of June 14, 2022, WESTERVELT arrived at the predetermine meeting location in Lake George, NY. While still in his role as the UC, the UC met WESTERVELT at a picnic table outside. The UC asked WESTERVELT what he would do with the UC. WESTERVELT stated he’s a “low key guy” and said “maybe making out..oral.” The UC responded, “Oral, is that your thing?” followed by “giving or receiving?” WESTERVELT responded “giving.” WESTERVELT stated he would do “everything and anything [the purported 12 year old] wants.” WESTERVELT told the UC that he thinks the UC’s read on him was “pretty good” and that the UC can “trust” him. WESTERVELT was subsequently arrested and provided his Miranda rights, which he invoked. Law enforcement officers recovered erection pills in a bottle with WESTERVELT’s name on it, along with personal lubricant.

18. The sexual acts WESTERVELT intended to perform on the 12 year old, as set forth above, would constitute, among others, the following crimes under New York State Penal Law:

New York State Penal Law § 130.45(1), Criminal Sex Act in the Second Degree, and New York State Penal Law § 130.60(2), Sexual Abuse in the Second Degree.

CONCLUSION

19. Based on the above information, I believe that probable cause exists that Scott WESTERVELT has violated Title 18, United States Code, Section 2422(b), which prohibits any person from using a facility of interstate commerce to persuade, induce, entice, and coerce, and attempt to persuade, induce, entice, and coerce, an individual who has not attained the age of 18 years, to engage in sexual activity for which any person can be charged with a criminal offense. I respectfully request that a criminal complaint be issued pursuant to this violation of federal law.



Andrew J. Zubik
Special Agent
Federal Bureau of Investigation

I, the Honorable Christian F. Hummel, United States Magistrate Judge, hereby acknowledge that this affidavit was attested to by the affiant by telephone on June 17, 2022 in accordance with Rule 41 of the Federal Rules of Criminal Procedure. _____ 15



Hon. Christian F. Hummel
United States Magistrate Judge